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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/870,843

06/01/2001

Yuzo Yoneyama

Q64787

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7590

04/14/2006

SUGHRUE, MION, ZINN,
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EXAMINER

TORRES, JUAN A

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 04/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action Before the Filing of an Appeal Brief	Application No. 09/870,843	Applicant(s) YONEYAMA, YUZO	
	Examiner Juan A. Torres	Art Unit 2611	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: 9.
 Claim(s) objected to: _____.
 Claim(s) rejected: 3, 7, 9 and 10.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.

Response to Arguments

Applicant's arguments filed on 04/06/2006 have been fully considered but they are not persuasive.

Regarding claim 3:

The Applicant contends, "Meszko fails to teach comparing detected signals, generating comparative signal, and calculating an average amplitude of comparison signals (OA page 3). Secondary reference Igarashi fails to provide this deficiency (Igarashi col. 15, lines 56-62)".

The Examiner disagrees and asserts, that, as indicated in the previous Office action Meszko discloses a comparator for receiving detection signals output from two detectors of two transmission units of said plural transmission units, comparing the detection signals and outputting a comparison signal (figure 1 block 54, column 5 line 23-30). Meszko doesn't specifically disclose that the delay amount control circuit calculates average amplitude of the comparison signal output from said comparator, and controls said delay circuits so that the average amplitude is equal to or lower than a threshold value. Igarashi discloses a delay amount control circuit calculates an average amplitude of the comparison signal output from said comparator, and controls said delay circuits so that the average amplitude is equal to or lower than a threshold value, (figure 16 column 15 line 40 to column 16 line 29).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

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USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The Applicant contends, "Meszko fails to provide controlling delay circuits on the basis of the comparison signal wherein the delay amount control circuit calculates an average amplitude of the comparison signal output from said comparator, and controls said delay circuits (OA page 3). Secondary reference, Igarashi fails to provide this deficiency".

The Examiner disagrees and asserts, that, as indicated in the previous Office action Meszko discloses a delay amount control circuit for controlling said delay circuits on the basis of the comparison signal so that modulation timing of RF signals to be transmitted from said two transmission units are coincident to each other whereby the difference in delay time between said two transmission units is converged to a permissible and acceptable value range (figure 1 block 54, column 5 line 23-30 block 50 and 52, column 5 line 42-44). Meszko doesn't specifically disclose that the delay amount control circuit calculates average amplitude of the comparison signal output from said comparator, and controls said delay circuits so that the average amplitude is equal to or lower than a threshold value. Igarashi discloses a delay amount control circuit calculates an average amplitude of the comparison signal output from said comparator, and controls said delay circuits so that the average amplitude is equal to or lower than a threshold value, (figure 16 column 15 line 40 to column 16 line 29).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections

are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

For these reasons and the reason stated en the previous Office action, the rejection of claim 3 is maintained.

Regarding claim 10:

The Applicant contends, "Claim 10 is asserted as being allowable at least by virtue of its dependence upon an allowable claim."

The Examiner disagrees and asserts, that, as indicated in the previous Office Action, claim 10 depends from claim 3 and claim 3 is a rejected claim. For these reasons and the reasons indicated in the previous Office Action the rejection of claim 10 is maintained.

Regarding claim 7:

The Applicant contends, "Meszko fails to suggest either in Figures or in the text that a delay circuit is provided between said frequency converter and said amplifier and the Examiner fails to make a prima facie case of obviousness for failing to provide a motivation to modify the disclosure in Meszko to arrive at required claim subject matter"

The Examiner disagrees and asserts, that, as indicated in the previous Office Action, the fact that the delay element is before or after the amplifier will not modify the operation of the device; Applicant doesn't provide a reasoning why to change the delay element from one position to another; Applicant position de delay element in different positions of the transmitter without modifying the operation of the device.

In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) (Claims to a hydraulic power press which read on the prior art except with regard to the position of the starting switch were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device.).

For these reasons and the reasons indicated in the previous Office Action the rejection of claim 7 is maintained.

Regarding claim 8:

The Applicant contends, "Meszko fails to teach or suggest a delay circuit on the output side of the amplifier. In fact, Meszko arguably teaches away from the subject matter of claim 8 by teaching and disclosing a delay circuit on the input side of the amplifier.".

The Examiner disagrees and asserts, that, as indicated in the previous Office Action, the fact that the delay element it is before or after the amplifier will not modify the operation of the device; Applicant doesn't provide a reasoning why to change the delay element from one position to another; Applicant position de delay element in different positions of the transmitter without modifying the operation of the device.

Meszko doesn't disclose that the delay circuit cannot be placed at the output of the amplifier. For this reason Meszko doesn't teach away.

In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) (Claims to a hydraulic power press which read on the prior art except with regard to the position of the starting switch were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device.).

For these reasons and the reasons indicated in the previous Office Action the rejection of claim 8 is maintained.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Juan A. Torres whose telephone number is (571) 272-3119. The examiner can normally be reached on Monday-Friday 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad H. Ghayour can be reached on (571) 272-3021. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Juan Alberto Torres
04-10-2006

TEMESGHEN GHEBREINSAE
PRIMARY EXAMINER